

**PT 00-21**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

**JESUS THE WAY  
TRUTH LIFE CHURCH,  
APPLICANT**

**v.**

**ILLINOIS DEPARTMENT  
OF REVENUE**

**No. 99-PT-0052  
(98-16-0933)**

**Real Estate Tax Exemption for  
1998 Assessment Year**

**P.I.N.S: 32-19-404-006  
32-19-404-008  
32-19-404-011**

**Cook County Parcels**

**Alan I. Marcus  
Administrative Law Judge**

**RECOMMENDATION FOR DISPOSITION  
PURSUANT TO APPLICANT'S MOTION FOR SUMMARY JUDGMENT**

**APPEARANCE:** Ms. Michelle Broughton-Fountain of Buikema, Hiskes, Dillner, O'Donnell & Marovich on behalf of Jesus the Way Truth Life Church (hereinafter the "applicant").

**SYNOPSIS:** This matter comes to be considered pursuant to applicant's motion for summary judgment. Applicant filed its motion after the Illinois Department Of Revenue (hereinafter the "Department") issued a determination in this matter on November 4, 1999. Said determination found that real estate identified by Cook County Parcel Index Numbers 32-19-404-006, 32-19-404-008 and 32-19-404-011 (hereinafter collectively referred to as the "subject property") did not qualify for exemption from

1998 real estate taxes under Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

The underlying controversy arises as follows:

Applicant filed a Real Estate Tax Exemption Complaint with the Cook County Board of (Tax) Appeals (hereinafter the “Board”) on March 29, 1999. The Board reviewed this complaint and recommended to the Illinois Department Of Revenue (hereinafter the “Department”) that the requested exemption be granted, but only for that 44% of the 1998 Assessment Year that began on July 23, 1998 and ended on December 31, 1998.

The Department reviewed the Board’s recommendation and issued the aforementioned determination on November 4, 1999. Said determination rejected the Board’s recommendation on grounds that the subject property “is not in exempt use.” (Department’s determination in Docket No. 98-16-0993 dated November 4, 1999).

Applicant filed a timely appeal to the Department’s determination but later filed this motion for summary disposition. Following a careful review of the motion and its supporting documentation, I recommend that the subject property be exempt from real estate taxes, but only for that 47% of the 1998 Assessment Year that began on July 14, 1998 and ended on December 31, 1998.

**FINDINGS OF FACT:**

1. The Department’s jurisdiction over this matter and its position therein are established by the admission of its determination in this matter, issued by the Office of Local Government Services on November 4, 1999.

2. The Department's position in this matter is that the subject property is not in exempt use.
3. The Articles of Incorporation tendered with applicant's original submission indicate that: (1) applicant was incorporated under the General Not For Profit Corporation Act of Illinois on April 16, 1994; and, (2) applicant's corporate purposes are to teach the doctrines of Jesus Christ and win the lost to Christ.
4. The subject property is located in Chicago Heights, IL. It has no common street address but is identified by Cook County Parcel Index Numbers 32-19-404-006, 32-19-404-008 and 32-19-404-011 as well as the following legal description:

The West 66 feet of North ½ of Lot 87 and the South ½ of Lot 87 and the South ½ of Lot 90 in the Hilltop Land Co's [sic] subdivision of the North ½ of the Southwest ¼ and of the West 25 acres of the North ½ of the Southeast ¼ of Section 19, Township 35 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.<sup>1</sup>

5. A tax deed tendered with applicant's original submission indicates that applicant acquired ownership of the subject property by means of tax deed dated July 14, 1998.
6. The uncontradicted affidavit of applicant's pastor, Jessie Stallworth, which applicant submitted with its motion for summary judgment, indicates that: (1) the subject property was unimproved as of the date of acquisition; (2) said property remained unimproved throughout the remainder of the 1998 tax year; (3) applicant held outdoor Christian prayer services on the subject property after it acquired ownership thereof; (4) applicant held outdoor prayer services on the following dates during 1998: July 16, and 23; August 6, 20, 25; September 15 and 24; October 8, 13, 15, 27 and 29; November 12, 14, 24 and December 18, 1998; (5) applicant also used the subject

property as a picnic area for church functions on an as-needed basis after it obtained its ownership interest therein; and, (6) there were no other uses of the subject property other than those described above.

### **CONCLUSIONS OF LAW:**

Summary judgment is appropriate where there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c). Applicant's unrefuted evidence removes all issues of material fact from this case. Evangelical Alliance Mission v. Department of Revenue, 164 Ill. App.3d 431, 439 (2<sup>nd</sup> Dist. 1987). Therefore, the only remaining source of controversy herein is a legal issue, that being whether applicant's evidence is legally sufficient to establish that the subject property qualifies for exemption from 1998 real estate taxes under the relevant statute.

That statute is found in Sections 15-40 of the Property Tax Code 35 ILCS 200/1-1 *et seq.* Section 15-40 provides, in relevant part, for exemption of "[a]ll property used exclusively for religious purposes...[.]" 35 ILCS 200/15-40. The word exclusively, when used in Section 15-40 and other exemption statutes "the primary purpose for which property is used and not any secondary or incidental purpose." Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993). Furthermore, as applied to the uses of property, a religious purpose means "a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction." People ex rel. McCullough v. Deutsche Evangelisch

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1. I have included a legal description so that the subject property can be precisely identified in the absence of a common street address.

Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

Statutes conferring property tax exemptions are to be strictly construed, with all facts construed and debatable questions resolved in favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Moreover, it is applicant that bears the burden of proving by clear and convincing evidence that the property it is seeking to exempt falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4th Dist. 1994).

Here, the applicable statute requires that the subject property be in active, exempt use throughout the tax year in question. *See*, 35 **ILCS** 200/15-40; Antioch Missionary Baptist Church v. Rosewell, 119 Ill. App.3d 981 (1st Dist. 1983) (church property that was completely vacant during tax year in question held non-exempt). The uncontradicted affidavit of applicant's Pastor, Jesse Stallworth clearly proves that applicant used the subject property for outdoor Christian prayer services and other purposes that qualify as "exclusively religious" within the meaning of Section 15-40 after it acquired ownership thereof.

Section 9-185 of the Property Tax Code states, in relevant part, that "when a fee simple title or lesser interest in property is purchased, granted, taken or otherwise transferred for a use exempt from taxation under this Code, that property shall be exempt from the date of the right of possession...[.]" 35 **ILCS** 200/9-185. The tax deed contained within applicant's original submission to the Department establishes that

applicant obtained its “right of possession” on July 14, 1998. Therefore, Section 9-185 limits its exemption claim herein to that 47% of the 1998 assessment year which occurred between July 14, 1998 and December 31, 1998.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that the portion of real estate legally described as “The West 66 feet of North ½ of Lot 87 and the South ½ of Lot 87 and the South ½ of Lot 90 in the Hilltop Land Co’s [sic] subdivision of the North ½ of the Southwest ¼ and of the West 25 acres of the North ½ of the Southeast ¼ of Section 19, Township 35 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois,” which is located on real estate identified by Cook County Parcel Index Numbers 32-19-404-006, 32-19-404-008 and 32-19-404-011 be exempt from real estate taxes, but only for 47% of the 1998 assessment year.

September 7, 2000

Date

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Alan I. Marcus  
Administrative Law Judge